IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 21ST MARCH 2007 / 30TH PHALGUNA 1928

Crl.MC.No. 822 of 2007()

ST.2404/2005 of JUDL.MAGISTRATE OF FIRST CLASS COURT-III, PALAKKAD

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PETITIONER/ACCUSED:

ANIL, AGED 47 YEARS,
S/O. VISWANATHAN, KADAMBADI VEEDU
INDIRA NAGAR, DHONI, PALAKKAD.

BY ADV. SRI.SASTHAMANGALAM S. AJITHKUMAR
SRI.RENJITH B.MARAR
SMT.LAKSHMI. RENJITH

RESPONDENTS/STATE & COMPLAINANT:

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1. STATE OF KERALA, REP. BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKAULAM.

2. G. SURESH, S/O. GOPI
UTHRADAM HOUSE, KENATHPARAMBA
NEAR FIRE STATION, PALAKKAD.

R1 BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 21/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 822 of 2007

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Dated this the 21st day of March, 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the N.I. Act. He had appeared before the learned Magistrate and was released on bail. According to the petitioner, the matter was settled. But the settlement was not reported and the complainant turned his back to the settlement proposal. The petitioner did not appear before the learned Magistrate and he now finds himself in the unenviable predicament of a non-bailable warrant issued by the learned Magistrate chasing him to procure his presence. He is willing to surrender before the learned Magistrate. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is in these circumstances prayed that appropriate directions may be issued to the learned Magistrate to release the petitioner on bail on the date of surrender itself.

2. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances

under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

3. This Crl.M.C. is accordingly dismissed, but subject to the above observations/directions. I may hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

4. Hand over copy of the order.

(R. BASANT)
Judge

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